

**THE LAW OFFICES OF  
NABIL N. KASSEM, LLC**

1000 Clifton Avenue

Clifton, New Jersey 07013

(973) 773-1300

Attorneys for defendants Alex Gershkovich and  
Smart Millwork Group, LLC

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EDUARD SLININ and GALINA SLININ,

Plaintiffs,

v.

AZA GERSHKOVICH, AZA WYCKOFF  
a/k/a AZA GERSHKOVICH and BORIS  
GERSHKOVICH, individually and doing  
business as TIER DEVELOPMENT, INC.,  
ALEX GERSHKOVICH individually and  
doing business as SMART MILLWORK  
GROUP, LLC,

Defendants.

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VIA ECF

Civil Action No.: 08-4148 (RMB)

[Hon. Richard M. Berman, U.S.D.J.]

**ANSWER, DEFENSES, DEMAND FOR  
STATEMENT OF DAMAGES, DEMAND  
FOR DOCUMENTS AND JURY TRIAL**

Defendants Smart Millwork Group, LLC, and Alex Gershkovich (sometimes hereinafter collectively referred to as the "Defendants"), by and through their attorneys, THE LAW OFFICES OF NABIL N. KASSEM, LLC answer the Plaintiffs' Complaint as follows:

**INTRODUCTION**

1. Defendants deny the allegations contained in paragraph 1 of the Plaintiffs' complaint and leave the Plaintiff to their proofs.

**JURISDICTION**

2. Paragraph 2 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 2 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

3. Paragraph 3 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 3 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

4. Paragraph 4 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 4 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

#### **PARTIES AND JURISDICTION**

5. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 5 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

6. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 6 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

7. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 7 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

8. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 8 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

9. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 9 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

10. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 10 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

11. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 11 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

12. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 12 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

13. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 13 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

14. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 14 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

15. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 15 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

16. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 16 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

17. Defendants deny the allegations contained in paragraph 17 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

18. Defendants deny the allegations contained in paragraph 18 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

19. Defendants deny the allegations contained in paragraph 19 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

### **FACTS**

20. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 20 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

21. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 21 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

22. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 22 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

23. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 23 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

24. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 24 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

25. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 25 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

26. Defendants deny the allegations contained in paragraph 26 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

27. Defendants deny the allegations contained in paragraph 27 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

28. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 28 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

29. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 29 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

30. Paragraph 30 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact, which the Defendants can admit or deny. To the extent that an answer is required, the Defendants deny the allegations contained therein and leave the Plaintiffs to their proofs.

31. Defendants deny the allegations contained in paragraph 31 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

32. Defendants deny the allegations contained in paragraph 32 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

33. Defendants deny the allegations contained in paragraph 33 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

34. Defendants deny the allegations contained in paragraph 34 of the Plaintiffs' complaint and leave Plaintiffs to their proofs.

35. Defendants deny the allegations contained in paragraph 35 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

36. Defendants deny the allegations contained in paragraph 36 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

37. Defendants deny the allegations contained in paragraph 37 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

38. Defendants deny the allegations contained in paragraph 38 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

39. Paragraph 39 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is

required, Defendants deny the allegations contained in paragraph 39 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

40. Defendants deny the allegations contained in paragraph 40 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

41. Defendants deny the allegations contained in paragraph 41 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

42. Defendants deny the allegations contained in paragraph 42 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

43. Defendants lack knowledge and/or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 43 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

44. Defendants deny the allegations contained in paragraph 44 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

45. Defendants deny the allegations contained in paragraph 45 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

46. Defendants deny the allegations contained in paragraph 46 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

47. Defendants deny the allegations contained in paragraph 47 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

48. Defendants deny the allegations contained in paragraph 48 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

49. Defendants deny the allegations contained in paragraph 49 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

50. Defendants deny the allegations contained in paragraph 50 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

51. Defendants deny the allegations contained in paragraph 51 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

52. Defendants deny the allegations contained in paragraph 52 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

53. Defendants deny the allegations contained in paragraph 53 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

54. Defendants deny the allegations contained in paragraph 54 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

55. Defendants deny the allegations contained in paragraph 55 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

56. Defendants deny the allegations contained in paragraph 56 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

57. Defendants deny the allegations contained in paragraph 57 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

58. Defendants deny the allegations contained in paragraph 58 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

59. Defendants deny the allegations contained in paragraph 59 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

60. Defendants deny the allegations contained in paragraph 60 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

61. Defendants deny the allegations contained in paragraph 61 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

62. Defendants deny the allegations contained in paragraph 62 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

63. Defendants deny the allegations contained in paragraph 63 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

64. Defendants deny the allegations contained in paragraph 64 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

65. Defendants deny the allegations contained in paragraph 65 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

66. Defendants deny the allegations contained in paragraph 66 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

**FIRST CAUSE OF ACTION**  
**(FRAUD)**

67. Defendants repeat and reallege each and every allegation set forth above as if set forth fully herein at length.

68. Defendants deny the allegations contained in paragraph 68 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

69. Defendants deny the allegations contained in paragraph 69 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

70. Defendants deny the allegations contained in paragraph 70 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

71. Defendants deny the allegations contained in paragraph 71 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

72. Defendants deny the allegations contained in paragraph 72 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

73. Defendants deny the allegations contained in paragraph 73 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

74. Defendants deny the allegations contained in paragraph 74 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

75. Defendants deny the allegations contained in paragraph 75 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

76. Defendants deny the allegations contained in paragraph 76 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

**SECOND CAUSE OF ACTION:**  
**(FALSE REPRESENTATIONS)**

77. Defendants repeat and reallege each and every allegation set forth above as if set forth fully herein at length.

78. Defendants deny the allegations contained in paragraph 78 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

79. Defendants deny the allegations contained in paragraph 79 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

80. Defendants deny the allegations contained in paragraph 80 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

81. Defendants deny the allegations contained in paragraph 81 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

82. Defendants deny the allegations contained in paragraph 82 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

**THIRD CAUSE OF ACTION:**  
**(TORTUOUS BREACH OF THE IMPLIED CONVENANT OF GOOD FAITH AND FAIR DEALING)**

83. Defendants repeat and reallege each and every allegation set forth above as if set forth fully herein at length.

84. Defendants deny the allegations contained in paragraph 84 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

85. Defendants deny the allegations contained in paragraph 85 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

86. Defendants deny the allegations contained in paragraph 86 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

87. Defendants deny the allegations contained in paragraph 87 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

88. Defendants deny the allegations contained in paragraph 88 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

**FOURTH CAUSE OF ACTION:**  
**(DECEPTIVE TRADE PRACTICES BY DEFENDANTS)**

89. Defendants repeat and reallege each and every allegation set forth above as if set forth fully herein at length.

90. Paragraph 90 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 90 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

91. Paragraph 91 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 91 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

92. Defendants deny the allegations contained in paragraph 92 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

93. Defendants deny the allegations contained in paragraph 93 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.



**FIFTH CAUSE OF ACTION:**  
**(BREACH OF CONTRACT)**

94. Defendants repeat and reallege each and every allegation set forth above as if set forth fully herein at length.

95. Defendants deny the allegations contained in paragraph 95 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

96. Defendants deny the allegations contained in paragraph 96 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

97. Defendants deny the allegations contained in paragraph 97 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

98. Defendants deny the allegations contained in paragraph 98 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

99. Defendants deny the allegations contained in paragraph 99 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

**SIXTH CAUSE OF ACTION:**  
**(FAILURE TO ESCROW CONSUMER DEPOSITS)**

100. Defendants repeat and reallege each and every allegation set forth above as if set forth fully herein at length.

101. Paragraph 101 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 101 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

102. Paragraph 102 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 102 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

103. Defendants deny the allegations contained in paragraph 103 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

**SEVENTH CAUSE OF ACTION:**  
**(ILLEGAL HOME IMPROVEMENT CONTRACT PRACTICE)**

104. Defendants repeat and reallege each and every allegation set forth above as if set forth fully herein at length.

105. Paragraph 105 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 105 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

106. Paragraph 106 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 106 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

107. Defendants deny the allegations contained in paragraph 107 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

**EIGHTH CAUSE OF ACTION:**  
**(VIOLATIONS OF RACKETEER INFLUENCED CORRUPT ORGANIZATIONS ACT)**

108. Defendants repeat and reallege each and every allegation set forth above as if set forth fully herein at length.

109. Defendants deny the allegations contained in paragraph 109 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

110. Paragraph 110 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 110 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

111. Paragraph 111 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 111 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

112. Defendants deny the allegations contained in paragraph 112 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

113. Defendants deny the allegations contained in paragraph 113 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

114. Defendants deny the allegations contained in paragraph 114 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

115. Paragraph 115 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 115 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

116. Defendants deny the allegations contained in paragraph 116 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

117. Defendants deny the allegations contained in paragraph 117 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

118. Defendants deny the allegations contained in paragraph 118 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

119. Defendants deny the allegations contained in paragraph 119 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

120. Paragraph 120 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 120 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

121. Defendants deny the allegations contained in paragraph 121 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

122. Defendants deny the allegations contained in paragraph 122 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

123. Paragraph 123 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 123 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

124. Defendants deny the allegations contained in paragraph 124 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

125. Defendants deny the allegations contained in paragraph 125 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

126. Paragraph 126 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 126 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

127. Paragraph 127 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 127 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

128. Defendants deny the allegations contained in paragraph 128 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

129. Paragraph 129 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 129 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

130. Defendants deny the allegations contained in paragraph 130 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

131. Paragraph 131 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 131 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

132. Defendants deny the allegations contained in paragraph 132 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

133. Paragraph 133 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 133 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

134. Paragraph 134 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 134 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

135. Paragraph 135 of the Plaintiffs' complaint contains conclusions of law and not allegations of fact to which the Defendants can admit or deny. To the extent that an answer is required, Defendants deny the allegations contained in paragraph 135 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

136. Defendants deny the allegations contained in paragraph 136 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

137. Defendants deny the allegations contained in paragraph 137 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

138. Defendants deny the allegations contained in paragraph 138 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

139. Defendants deny the allegations contained in paragraph 139 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

140. Defendants deny the allegations contained in paragraph 140 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

141. Defendants deny the allegations contained in paragraph 141 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

142. Defendants deny the allegations contained in paragraph 142 of the Plaintiffs' complaint and leave the Plaintiffs to their proofs.

**AFFIRMATIVE DEFENSES**  
**FIRST DEFENSE**

Plaintiffs' complaint fails to state a claim against the Defendants upon which relief can be granted.

**SECOND DEFENSE**

Plaintiffs' claims are barred due to the applicable Statute of Limitations.

**THIRD DEFENSE**

Plaintiffs' complaint must be dismissed because this Court lacks personal and/or subject matter jurisdiction over the Defendants.

**FOURTH DEFENSE**

Plaintiffs' complaint must be dismissed because venue has not been properly laid.

**FIFTH DEFENSE**

Plaintiff suffered no damages as a direct and proximate result of the Defendants' actions.

**SIXTH DEFENSE**

Defendants did not violate any duty owed to Plaintiffs.

**SEVENTH DEFENSE**

Plaintiffs' complaint is barred by Plaintiffs' fraud.

**EIGHTH DEFENSE**

Plaintiffs' complaint must be dismissed because the Plaintiffs failed to properly serve their complaint in accordance with the Federal Rules of Civil Procedure.

**NINTH DEFENSE**

The allegations set forth in the Plaintiffs' complaint against Defendants are false, frivolous and groundless and the Defendants reserve the right to seek sanctions, attorney's fees and costs pursuant to the Rule 11 and the Frivolous Claims Act.

**TENTH DEFENSE**

Defendants reserve the right to interpose such other affirmative defenses as additional discovery and investigation shall disclose.

**ELEVENTH DEFENSE**

Plaintiffs' complaint is barred in whole or part by the doctrine of waiver.

**TWELVTH DEFENSE**

Plaintiffs' complaint is barred by the doctrine of merger.

**THIRTEENTH DEFENSE**

The alleged injuries and damages complained of by Plaintiffs, if any, were proximately caused by intervening, supervening causes beyond the control of the Defendants.

**FOURTEENTH DEFENSE**

Plaintiffs' complaint is barred by the doctrine of laches.

**FIFTEENTH DEFENSE**

Plaintiffs did not sustain any compensable damages.

**SIXTEENTH DEFENSE**

Defendants' conduct, if any, was not the actual or proximate cause of the Plaintiffs' damages, if any.

**SEVENTEENH DEFENSE**

Plaintiffs' complaint is barred by the doctrine of equitable estoppel.

**EIGHTEENTH DEFENSE**

Defendants reserve the right to move to dismiss the Plaintiffs' complaint for failure to serve or issue the summons and complaint in a timely manner.

**NINETEENTH DEFENSE**

New York law does not apply to contracts entered into and performed in the State of New Jersey and New Jersey law does not apply to contracts entered into and performed in the State of New York.

**TWENTIETH DEFENSE**

Plaintiffs' injuries, if any, were caused by third parties over whom the Defendants have no control.

**TWENTY-FIRST DEFENSE**

Defendants have no minimum contacts with the State of New York.

**TWENTY-SECOND DEFENSE**

At all times relevant hereto, the Defendants complied with all applicable laws, regulations and standards.

**TWENTY-THIRD DEFENSE**

Plaintiffs' claim is barred or diminished by accord and satisfaction.

**TWENTY-FOURTH DEFENSE**

Plaintiffs' complaint is barred or reduced by their failure to mitigate their damages, if any.

**TWENTY-FIFTH DEFENSE**

Plaintiffs' complaint has been brought without a good faith basis as to the allegations with a purpose to harass, intimidate or and/or defame the reputation of the Defendants.

**TWENTY-SIXTH DEFENSE**

Plaintiffs' claim is barred as to Defendants Alex Gershovich who has no individual liability for any alleged acts or omissions of corporate entities.

**TWENTY-SEVENTH DEFENSE**

Plaintiff's claim is barred as to Defendant Smart Millwork, LLC which has not been properly named in the Complaint or served with the complaint.

**TWENTY-EIGHTH DEFENSE**

Defendants reserve the right to interpose additional defenses as discovery is ongoing.

**TWENTY-NINTH DEFENSE**

Defendants incorporate each and every defense of the co-defendants as if set forth at length herein.

**THIRTIETH DEFENSE**

To the extent that Defendants owe Plaintiffs any amounts, which is denied, Defendants are entitled to an offset.

**THIRTY-FIRST DEFENSE**

To the extent that Defendants owe Plaintiffs any amounts, which is denied, Defendants are entitled to an offset.

**THIRTY-SECOND DEFENSE**

Defendants did not owe any duty to the Plaintiffs.

**THIRTY-THIRD DEFENSE**

Defendants did not contract with the Plaintiffs.

WHEREFORE, the Defendants demand:

- (a) Dismissal of the complaint with prejudice;
- (b) Awarding of attorney's fees and costs to the Defendants; and
- (c) Such other relief as the Court may deem equitable and just.



**DESIGNATION OF TRIAL COUNSEL**

Nabil N. Kassem, Esq. is hereby designated as trial counsel on behalf of all named Defendants.

Dated: August 18, 2008

Respectfully Submitted,

**THE LAW OFFICES OF  
NABIL N. KASSEM, LLC**

By: /s/ Nabil N. Kassem

Nabil N. Kassem (NK1387)  
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Smart Millwork Group, LLC and  
Alex Gershkovich

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